

Application Number:
Amendment Dated:
Office Action Dated

10/510,457
September 17, 2009
April 16, 2009

REMARKS

This paper is responsive to the Office Action dated April 16, 2009 for which a three (3) month period of response was given. A Petition and fee for a three (3) month extension of time accompanies this paper. Also enclosed is a Request for Continued Examination (RCE) and the fee required for same. Additionally, the Commissioner is hereby authorized to charge the necessary additional claims fees, as well as the afore-mentioned extension of time and RCE fees, to Deposit Account No. 50-0959, Attorney Docket No. 089498.0426.

Claims 1 through 24 are pending in the present application upon entry of the above amended claim set. Claims 1, 9 and 13 have been amended to better state the nature of the present invention. Support for the amendments to claims 1, 9 and 13 can be found in the specification as filed. Accordingly, no new matter has been added. Claims 4 through 6, 10 through 12, 15 and 16 have been amended to correct various inadvertent grammatical issues previously present in claims 4 through 6, 10 through 12, 15 and 16. It should be noted that the amendments to claims 4 through 6, 10 through 12, 15 and 16 are in no way meant to limit the scope thereof and were only made for grammatical and/or stylistic reasons. Claims 16 through 24 have been added. Support for newly added claims 16 through 24 exists in the specification as filed. As such, entry and consideration of the amendments to the claims, and the remarks that follow, are believed due and are respectively requested.

I. The Abstract:

Per the Examiner's review of the previous Abstract, the Abstract has been replaced with the one shown herein. As such, any potential objection to the Abstract is believed to have been rendered moot.

II. The 35 U.S.C. § 102(b) Rejection:

Claims 1 through 12 have been rejected under 35 U.S.C. §102(b) over WO 02/15816. WO 02/15816 discloses a compression dressing that contains a self-adhering elastic bandage strip that is designed to exert a compressive force when the dressing is wrapped around a body part sufficient to hold the compressive dressing in place for a period of time to provide a therapeutic effect to a wound.

The Examiner contends that WO 02/15816 teaches a non-woven fiber medical dressing that comprises one or more fibers having an adhesive component, an elastomeric component, and further, a hydrophilic component selected from those recited in the subject claims. The Examiner further contends that the reference provides an article capable of adhering to a dry substrate and not a wet substrate, and has a composition at the top surface different from the composition at a second surface of the assembly. Finally, the Examiner considers that the fiber diameter provided for in the reference and the subject application are the same and concludes therefore that the document teaches a method of providing the materials claimed. Applicants respectfully disagree.

Upon review of WO 02/15816, WO 02/15816 clearly fails to disclose, teach or suggest a non-woven fiber assembly of claims 1 and 9 where such a non-woven fiber assembly comprises one or more fibers wherein each fiber contains: a hydrophilic component; and an elastomeric component, and wherein the non-woven fiber assembly further comprises an adhesive component (emphasis supplied). Additionally, WO 02/15816 clearly fails to disclose, teach or suggest a non-woven fiber assembly of claim 17 where such a non-woven fiber assembly comprises one or more fibers wherein each fiber contains: a hydrophilic component; an elastomeric component; and an adhesive component (emphasis supplied). As is well settled, the term "contain" means "to have within" (see The Merriam-Webster Dictionary).

Given the above, WO 02/15816 clearly fails to disclose, teach or suggest each and every claimed feature recited in pending claims 1, 9 and 17. Since WO 02/15816 fails to disclose, teach or suggest each and every feature of pending claims 1, 9 and 17, WO

02/15816 cannot anticipate, or render obvious, pending claims 1 through 12 and 16 through 24.

Accordingly, for at least the above reason, the 35 U.S.C. § 102(b) rejection of claims 1 through 12 over WO 02/15816 is believed to be unfounded, and withdrawal thereof is believed due and is respectfully requested.

III. The 35 U.S.C. § 103(a) Rejection:

Claims 13 through 15 have been rejected under 35 U.S.C. § 103(a) over Joseph et al. (United States Patent No. 5,238,733) in view of Forte (United States Patent No. 6,114,024).

Turning to Joseph et al., Joseph et al. discloses a device that utilizes a die-based process to form the fibers disclosed in Joseph et al. (emphasis supplied). As can be seen from the disclosure contained at column 3, lines 3 through 25:

[t]he polymeric components are introduced into the die cavity 12 of die 10 from a separate splitter, splitter region or combining manifold 20, and into the, *e.g.*, splitter from extruders, such as 22 and 23. Gear pumps and/or purgeblocks can also be used to finely control the polymer flowrate. In the splitter or combining manifold 20, the separate polymeric component flowstreams are formed into a single layered flowstream. However, preferably, the separate flowstreams are kept out of direct contact for as long a period as possible prior to reaching the die 10. The separate polymeric flowstreams from the extruder(s) can be split in the splitter (20). The split or separate flowstreams are combined only immediately prior to reaching the die, or die orifices. This minimizes the possibility of flow instabilities generating in the separate flowstreams after being combined in the single layered flowstream, which tends to result in non-uniform and discontinuous longitudinal layers in the multi-layered microfibers. Flow instabilities can also have adverse effects on non-woven web properties such as strength, temperature stability, or other desirable properties obtainable with the invention process.

As such, Joseph et al. fails to disclose, teach or suggest each and every claimed feature of claim 13. That is, Joseph et al. clearly fails to disclose, teach or suggest a fiber-forming device selected from a spinnerette, a NGJ nozzle, and an electrospinning device, where the fiber-forming device is capable of producing a fiber that contains a hydrophilic component and an elastomeric component, and optionally contains an adhesive component (emphasis added). As such, due to the clear shortcomings of Joseph et al., Joseph et al. fails to render obvious claims 13 through 15.

Turning to Forte, Forte fails to cure the deficiencies of Joseph et al. This is because Forte also discloses only a die based process. As such, Forte fails to disclose, teach or suggest each and every claimed feature of claim 13. That is, Forte clearly fails to disclose, teach or suggest a fiber-forming device selected from a spinnerette, a NGJ nozzle, and an electrospinning device, where the fiber-forming device is capable of producing a fiber that contains a hydrophilic component and an elastomeric component, and optionally contains an adhesive component (emphasis added). As such, due to the clear shortcomings of Forte, Forte fails to render obvious claims 13 through 15.

Additionally, due to the shortcomings of both Joseph et al. and Forte, the Examiner has failed to make the require *prima facie* case of obviousness. This is because both Joseph et al. and Forte fail to disclose, teach or suggest each and every feature recited in pending claim 13. As such, the 35 U.S.C. § 103(a) rejection of claims 13 through 15 is believed to be unfounded, and withdrawal thereof is believed due and is respectfully requested.

IV. The Non-Statutory Obviousness-Type Double Patenting Rejection:

Claims 1, 4 through 6, 8 and 13 through 15 have been rejected under the doctrine of non-statutory obviousness-type double patenting. However, given the amendments made to claims 1 and 13 it is believed that the non-statutory obviousness-type double patenting rejection has been rendered moot. As such, withdrawal of this rejection is believed due and is respectfully requested.

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V. Conclusion:

Accordingly, reconsideration and withdrawal of the specification objection, the 35 U.S.C. § 102(b) rejection, the 35 U.S.C. § 103(a) rejection, and the non-statutory obviousness-type double patenting rejection of claims 1 through 15 are believed due and are respectfully requested.

For at least the foregoing reasons, claims 1 through 24 of the present application are believed to be in condition for allowance, and a Notice of Allowance is respectfully requested.

Should the Examiner wish to discuss any of the foregoing in more detail, the undersigned attorney would welcome a telephone call.

Respectfully submitted,

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